

Appln No. 10/533,348
Amdt date July 30, 2008
Reply to Office action of June 2, 2008

REMARKS/ARGUMENTS

Reconsideration of the application is respectfully requested. Currently claims 1 and 3-6 are pending in the application. No claims have been amended.

Claims 1, 4 and 5 have been rejected as allegedly obvious over Van der Wal and Simeone and admitted prior art. This rejection is respectfully traversed.

The Examiner has newly cited Simeone in combination with previously cited references to reject the claims. The Examiner has taken the position that Simeone teaches applying a strap type band 12 and film type band 16 simultaneously to a packet for the purpose of facilitating opening of the packet. It is respectfully submitted that Simeone does not disclose what the Examiner is asserting. Simeone is directed to a tear-strip wrapper processing apparatus which applies a wrapper 16, typically aluminum foil, with a tear-strip 12, typically wax paper. The wrapper 16 and tear-strip 12 are applied around a roll of hard candy. Applying a wrapper around an object is not the same as the claimed invention of applying a band around a number of packets. A wrapper for hard candy has to wrap the candy completely while a band is only applied around a limited height of a number of packets. Consequently, totally different apparatuses are used for applying bands when compared to apparatuses which apply a wrapper which has to be folded so that the candy is completely wrapped.

Besides being non-analogous art, the recited combination still does not disclose or render the claimed invention obvious. More specifically, claim 1 requires the band clamping and guiding means to be arranged for applying a strap type band and a film type band one above the other. Even if the wrapper in Simeone was to be considered a band of the film type, which it is not, and the tear-strip as a band of the strap type, which it is not, then the tear-strip is applied directly below (and on) the wrapper and hence can not meet the claim limitation of requiring the band clamping and guiding means to be arranged for applying a strap type band and a film type band one above the other.

In addition, claim 1 recites that the bands are positioned one above the other around one or more packets such that each band can be sought, fixedly clamped, welded together and

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separated. The wrapper and tear-strip in Simeone are not welded together and separated, but rather the tear-strip is affixed to the wrapper.

The Examiner has asserted that one of ordinary skill in the art would modify Simeone's device with a conveyor, frame, band clamping, guiding and welding means as disclosed in Van der Wal for the purpose of supporting the candy and supply reels and also to properly seal the wrapper and tear-strips together. It is respectfully submitted that the recited combination would not result in the claimed invention, as the conveyor belt, frame, band clamping and guiding means and welding means of Van der Wal would not work in Simeone because the Van der Wal components apply bands one above the other and not on top each other which is required in Simeone. This is necessary to have the tear-strip below on top of the wrapper to aid in opening the wrapper to expose the candy.

Claims 3 and 6 have been rejected as obvious in view of Van der Wal, Simeone, admitted prior art, and Odenthal. This rejection is respectfully traversed. Odenthal does not disclose the deficiencies of Van der Wal or Simeone, but only has been cited as disclosing bands of different widths or bands which can be embossed or printed upon and therefore is allowable for at least the reasons recited above.

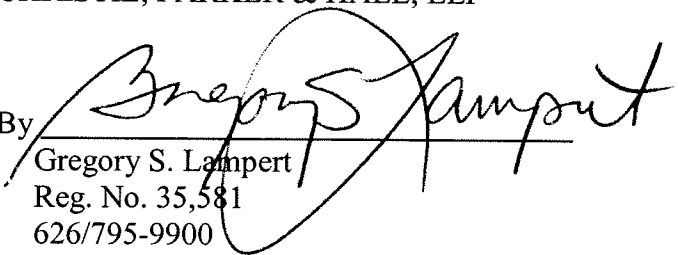
Applicant has attempted to reach the Examiner by phone for a telephonic interview without success. Considering the application has been finally rejected, a response is being filed with the two-month shortened statutory period. Should the Examiner not be persuaded by the arguments presented herein, Applicant respectfully requests a telephonic interview before the three-month deadline of September 2, 2008.

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In view of the foregoing amendments and remarks, it is respectfully submitted that the Application is now in condition for allowance, and, accordingly, early indication is respectfully requested.

Respectfully submitted,
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